

may present a written statement to the committee at any time.

Issued in Washington, DC, on May 18, 1995.

Janice L. Peters,

Designated Official.

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Notice of Intent To Rule on Applications To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at John F. Kennedy International Airport, Jamaica, NY; LaGuardia Airport (LGA), Flushing, NY, and Newark International Airport (EWR), Newark, NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on applications.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC and to amend previous PFC applications at JFK, LGA and EWR Airports under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 23, 1995.

ADDRESSES: Comments on these applications may be mailed or delivered in triplicate to the FAA at the following address: Mr. Philip Brito, Manager New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York, 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. George J. Marlin, Executive Director of the Port Authority of New York & New Jersey at the following address: One World Trade Center, Suite 1973, New York, New York 10048.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Port Authority of New York & New Jersey under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager of the New York Airports District Office, Manager New York Airports District Office 600 Old Country Road, suite 446, Garden City, NY, 11530. The applications may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public

comment on the applications to impose and use the revenue from a PFC at JFK, LGA and EWR Airports as well as applications to amend previous PFC approvals at all three airports under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). On May 8, 1995, the FAA determined that the applications to impose and use the revenue from a PFC submitted by Port Authority of New York & New Jersey were substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the applications, in whole or in part, no later than July 9, 1995.

The following is a brief overview of the applications.

Level of the proposed PFC: \$3.00

Proposed charge effective date: October 1, 1995

Proposed charge expiration date: August 31, 2001

Total estimated PFC revenue: \$663,000,000

Brief description of proposed projects:

JFK Projects

—Automated Guideway Transit System—Planning and Design To impose and use an additional \$38 million in PFC funds to reimburse the Port Authority for \$19 million in planning previously authorized by the Board of Commissioners, to complete the planning studies for the AGT system, and to advance the design procurement and local permitting efforts prior to the implementation phase. Approximately \$2 million of this total is for planning studies for the EWR Monorail-NEC (FGT) project beyond the \$7 million approved by the FAA in 1992.

—Automated Guideway Transit System—Howard Beach Component To impose \$325 million in PFC funds for the remainder of the on-airport portion of the AGT system at JFK. This segment would extend from the CTA to Federal Circle along the Van Wyck and extend to serve the employee parking lot, the long term parking lots and the Howard Beach subway station.

LGA Projects

—Automated Guideway Transit System—On-Airport Component To impose \$61 million in PFCs to fund a portion of the on-airport component of the AGT system at LGA.

—Second Grand Central Parkway to LGA Flyover To amend previous PFC to withdraw this project.

EWR Projects

—EWR Monorail

To impose and use an additional \$50 million, also to use \$50 million in PFCs already imposed, for the construction of a monorail linking various areas within the airport.

—Landside Access—Phase 1A

To impose and use \$50 million for on-airport roadway improvements and modifications to reduce congestion.

—EWR I-78 Flyover

To amend previous PFC to withdraw this project.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi, except commuter air carriers.

Any person may inspect the applications in person at the FAA office listed above under “**FOR FURTHER INFORMATION CONTACT**” and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the applications, notice and other documents germane to the application in person at the Port Authority of New York & New Jersey.

Issued in Jamaica, New York on May 11, 1995.

William DeGraaff,

Manager, Planning & Programming Branch, Eastern Region.

[FR Doc. 95-1754 Filed 5-3-95; 8:45 am]

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Federal Railroad Administration

[FRA Docket Nos. PB-95-1 and SA-95-2]

MK Rail Corporation (MKRC) and CSX Transportation, Inc. (CSXT)

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Change of hearing date.

SUMMARY: On May 5, 1995, FRA published in the **Federal Register** a Notice of Petition for Waivers or Compliance (60 FR 22427) regarding the future operations of a train known as the “Iron Highway.” FRA scheduled a public hearing for May 25, 1995. Due to scheduling constraints, FRA must change the date of the public hearing. As a consequence, FRA is rescheduling the public hearing to June 29, 1995, in room 4436 of the Nassif Building, DOT Headquarters Building, 400 Seventh

Street SW., Washington, DC. We apologize for any inconvenience this rescheduling may cause.

DATES: A public hearing will be held at 10 a.m. on June 29, 1995.

ADDRESSES: A public hearing will be held in room 4436 of the Nassif Building, 400 Seventh Street SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harold Morick, Motive Power & Equipment Division, Office of Safety, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone 202-366-4094), or Mark Tessler, Trial Attorney, Office of Chief Council, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone 202-366-0628).

Issued in Washington, DC, on May 18, 1995.

E.R. English,

Director, Office of Safety Enforcement.

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National Highway Traffic Safety Administration

[Docket No. 94-107; Notice 2]

Excalibur Automobile Corp.; Grant of Application for Decision of Inconsequential Noncompliance

Excalibur Automobile Corporation (Excalibur) of Milwaukee, Wisconsin, determined that some of its vehicles failed to comply with the automatic restraint system requirements of 49 CFR 571.208, Federal Motor Vehicle Safety Standard (FMVSS) No. 208, "Occupant Crash Protection," and filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Excalibur has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety"—on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published on January 5, 1995 (60 FR 1823). This notice grants the application.

Paragraph S4.1.4 of FMVSS No. 208 requires that vehicles manufactured on or after September 1, 1989, be equipped with a restraint system at each front outboard designated seating position that meets the standard's frontal crash protection requirements by means that require no action by vehicle occupants. This type of system is referred to as an automatic restraint system.

Excalibur manufactured 59 model year 1993, 1994, and 1995 JAC 427 Cobras without automatic restraint systems. These vehicles all contain

Type 2, three-point harness active restraint systems. However, as Excalibur noted in its part 573 Report filed concurrently with the application under consideration, "36 JAC 427 Cobras are in dealers' possession and 15 have been acquired by ultimate purchasers. The remaining automobiles remain in the possession of Excalibur." NHTSA granted Excalibur's application for temporary exemption on March 6, 1995 (60 FR 12281), an agency action that covers the 36 unsold cars in dealer stock and in Excalibur's possession. Therefore, only the 15 cars that have been sold remain subject to the application under consideration.

Excalibur supported its application for inconsequential noncompliance with the following. The 15 JAC 427 Cobras all contain Type 2, three-point harness active restraint systems. Bringing these vehicles into compliance with paragraph S4.1.4 of FMVSS 208 would be very difficult from an engineering perspective, and whatever feasible solutions may be available, would most likely result in significant expense for Excalibur, a small financially-strapped company.

As set forth below, Excalibur argued that the overall safety risk from noncompliance with paragraph S4.1.4 of FMVSS 208 is inconsequential because of (1) the vehicle's specialized and limited use and small number and (2) Excalibur's belief that Cobra owners have a relatively high level of safety belt use and (3) Excalibur's proposal to boost further Cobra safety belt use by placing a warning label in the vehicle.

1. The Overall Safety Risk From Noncompliance of Excalibur's (15) JAC 427 Cobras With FMVSS 208 Is Inconsequential Given Their Specialized And Limited Use And Small Number

The JAC 427 Cobra is not an ordinary passenger automobile designed for daily use. It is a classically-styled automobile viewed as a collector's item by automobile purchasers. * * * The JAC 427 Cobra is a convertible which seats two persons, and has a small trunk. As a result, it is not designed to be used as a family's primary passenger vehicle. Instead, the JAC 427 Cobra is typically driven only short distances from an owner's home. Owners of these (sic) type of automobiles generally drive these automobiles no more than 4000 miles per year.

Excalibur has never planned to produce many JAC 427 Cobras due to the limited capacity of its manufacturing facilities and the nature of its manufacturing process. For example, the highest monthly total of JAC 427 Cobra automobiles ever produced was 17. Only 59 of these automobiles were produced for sale in the U.S. between January 1993 and September 1994, a 21-month period. In 1995, Excalibur's total planned production is only 100-180 JAC 427

Cobras for sale worldwide, or no more than 15 per month. Of the 100-180, only 60% of the JAC 427 Cobras, or 60-108, are proposed for sale in the U.S.

The collector's nature of the JAC 427 Cobra, the low number of miles that these types of vehicles are driven on any consistent basis, and the small number of actual JAC 427 Cobras that do not comply with FMVSS 208 illustrate the overall reduced safety risk of these vehicles, especially when compared to the overall risk posed by the average use of the standard family passenger vehicle. Thus, the total effect of the existence of only (15) JAC 427 noncomplying automobiles—which are meant for weekend pleasure driving—is inconsequential in relation to the overall level of motor vehicle safety in the U.S.

2. The Safety Risk From Noncompliance Of Excalibur's (15) JAC 427 Cobras With FMVSS 208 Is Inconsequential Due To Probable Existing Cobra Safety Belt Use And To Excalibur's Proposal To Boost Cobra Safety Belt Use

The use of safety belts has been shown to significantly reduce injuries and fatalities in automobile crashes. *See generally* NHTSA, *Evaluation of the Effectiveness of Occupant Protection—FMVSS 208 Interim Report, June 1992* (hereinafter referred to as "Interim Report"). Use of safety belts has increased dramatically since 1983 due to the enactment of state mandatory safety belt laws and the installation of automatic safety belt systems. By May of 1992, 42 states plus the District of Columbia and Puerto Rico had enacted laws requiring the use of safety belts. Interim Report at v. Safety belt use overall increased nationwide to nearly 59% in late 1991, ranging from 24% in Mississippi to 83% in Hawaii. NHTSA, *Effectiveness of Occupant Protection Systems and Their Use—Report to Congress, January 1993*. Manual safety belt use nationwide reached 56% in 1991, and may be even higher today due to increased safety awareness. *See* Interim Report at viii.

An informal survey of Excalibur automobile owners, including those of the JAC 427 Cobra, revealed that these owners on average are 45 year-old males with greater incomes and higher levels of education than the general population. Unlike youthful segments of the population who are more prone to reckless driving, Excalibur automobile owners are predominantly established, responsible people who value their personal safety and the quality and uniqueness of their investment in an Excalibur automobile. As a result, Excalibur opines that the owners of the JAC 427 Cobras are more likely to be wearing a safety belt while driving than other segments of the population, such as young single males.

To ensure even higher safety belt use in its JAC 427 Cobras, and thereby increase the safety of the driver and passenger, Excalibur proposes reminding in the strongest terms possible both the driver and passenger of the consequences of not using their safety belts. Excalibur would accomplish this by posting a warning label plainly and clearly visible to both the driver and passenger which states as follows: